



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2994 (1900-B)
April 1, 1994

SUBJECT: Preparing for Appeal Hearings

TO: State Directors, District Directors, County
Supervisors

PURPOSE/INTENDED OUTCOME: The purpose of this AN is to assist FmHA decision makers and hearing officers in preparing for and participating in appeal hearings.

COMPARISON WITH PREVIOUS AN: There is no previous AN on this subject; expired AN 2499 (1900) partially addressed this subject.

IMPLEMENTATION RESPONSIBILITIES: This AN is to give attention to specific requirements and clarify certain existing regulations and practices.

- The practice of requiring and administering oaths by Hearing Officers is discontinued effective immediately. This decision is based on a recommendation opined by the Office of General Counsel. All information given during testimony will be considered in the same manner by the National Appeals Staff. Evidence presented at the hearing will be reasonably and objectively weighed by the Hearing Officers.

- FmHA Instruction 1900.53(a) requires that FmHA program decision makers include in the file all documentation and calculations necessary to initiate the adverse action. Furthermore, the specific reason(s) for the decision must be clearly explained to the applicant or borrower, and decision letters should clearly define the basis for the adverse action including the supporting written policy.

- FmHA Instruction 1900.57(b) requires that decision makers or informed delegates be at the appeal hearing and present any necessary information. As previously stated in AN 2499, "Rarely will it not be necessary to present information documenting the adverse

EXPIRATION DATE:
March 31, 1995

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1900-B

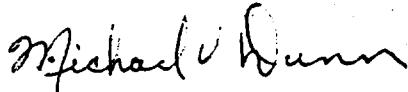


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decision being appealed. FmHA decision makers should be fully prepared to actively defend adverse decisions at appeal hearings; they should not arrive at an appeal hearing planning to "rest on the record." The decision maker must be able to define the adverse action, state why it was taken, and identify supporting FmHA Instructions and written policies." Copies of relevant regulation and/or documents specifically supporting their position should be presented as exhibits in accordance with the timeframes and guidance provided in the Notice of Hearing.

- Copies of relevant memorandums issued by the Office of General Counsel may now be provided to appellants.

- FmHA applicants and borrowers have the fundamental right to understand the decision and its basis, to question the decision maker, and to present evidence to refute the decision. FmHA employees have a responsibility to assure that applicant/borrower rights are honored and to properly represent the Agency in an appeal hearing.

A handwritten signature in cursive script, appearing to read "Michael V. Dunn".

MICHAEL V. DUNN
Administrator